

Bureau of Enforcement

Frequently Asked Questions

Laws and Rules

Where can I find the laws that govern real estate and real estate appraiser licensees?

Real estate licensees are governed by [Florida Statute 475, Part I](#) and Rules, [61J2](#), Florida Administrative Code (starts on page 1167).

Appraisers are governed by [Florida Statute 475, Part II](#) and Rules [61J1](#), Florida Administrative Code (starts on page 1145).

Licensees

How can I find out if a person has a Real Estate license?

Visit <http://www.myflorida.com>, go to "Bus. & Prof. Reg." and search for a license under the **Licensing and Permitting** section of the website.

Broker Records

How long does a broker have to keep business records?

A broker is required to maintain legible records of all transactions, financial records, etc. for a period of five years. If any record has been subject to litigation or used as evidence, it must be maintained until at least two years after the litigation has concluded.

All such records of a brokerage are subject to review by the department's real estate investigators during normal business hours.

Commission Disputes

Does the department handle real estate commission disputes?

The department does not handle commission disputes unless there is fraud or misrepresentation. Commission disputes are a civil matter. In 1984 the District Court of Appeals mandated that until a civil suit has been filed and a civil judgment rendered, the Florida Real Estate Commission cannot get involved ([F.S. 475.25\(1\)\(d\)](#)).

Contracts

I have a contract with a seller. I have tried three mortgage companies to get a loan and I have been denied. Can I get my \$1000 deposit back? The seller is holding the money.

This is a civil matter. The Florida Real Estate Commission only has jurisdiction over the real estate licensee and can only get involved when the licensee is holding the escrow funds in the broker's trust account (not the seller, an attorney or a title company).

Listing Agreement

Can I get out of my listing agreement with my broker? I am not satisfied with his/her performance.

Generally the listing agreement is a legally binding contract. You must consult a private attorney to determine if you can terminate the agreement. However, if the broker has not provided you with a fully executed copy of that listing contract or has in some way defrauded or misrepresented you, you may file a written complaint ([F.S. 475.25\(1\)\(b\), \(r\)](#)).

Property Management

I am an out-of-state property owner. I feel that the broker I hired to manage my property has not protected my investment; the broker refuses to answer my inquiries or perform repairs per our management agreement. Now he refuses to turn over my rent and security deposits to the new property manager. What recourse do I have?

File a written [complaint](#) with the division.

Complaints/Complaint Forms

How do I file a complaint regarding real estate or appraisals?

Complaints against real estate licensees, appraisers, or unlicensed persons must be in writing and signed. The division will provide you with a complaint form either by mail or fax, or it can be [downloaded](#) or completed [online](#). Include details of the complaint along with copies of any documents pertinent to the matter (copies of front and back of checks, contracts, closing statements, appraisals, etc.). If you choose to send your complaint electronically, please be advised that you must print a copy, sign it, and send it with supporting documentation to the Division of Real Estate's Complaint Section before an evaluation of legal sufficiency can be made.

Please send only one copy of your complaint. Sending duplicates could cause a delay in the processing of your complaint.

What happens to my complaint when you receive it?

When a complaint is received, it is forwarded to a complaint analyst. The analyst reads the complaint and determines if it is "legally sufficient:"

1. If there appear to be violations that are supported by documentation, a case number is assigned and the case is forwarded to the Investigative Field Office in that area.
2. If the complaint does not have sufficient information to support the alleged violation, it is assigned a case number, a letter is sent to the complainant explaining that no case will be opened. The complaint is retained as part of the division's records and remains confidential.

What is the status of the complaint I submitted?

You will receive written notification of your complaint status upon completion of review by the Complaint Analyst. If your complaint is opened for investigation, you will also receive written notification (along with a contact number) from the investigator to which it has been assigned.

At what point does a complaint become public information?

A complaint does not become public information until 10 days after probable cause has been found or until the subject of the investigation waives his/her privilege of confidentiality.

What disciplinary action can be taken against a real estate or appraiser licensee?

The Florida Real Estate Commission/Florida Real Estate Appraisal Board can either fine, suspend, revoke, place on probation or reprimand licensees. Neither the commission nor the board have authority to order restitution or payment of money.

Disciplinary Actions

How can I find out if there have been complaints filed against a particular licensee?

All complaints are confidential but we can advise you of any disciplinary actions that may have been taken against real estate/appraiser licensees. We need the correct spelling of the licensee's name (last, first, middle initial if available). If it is a company, the correct spelling and location of the company would be helpful.

Escrow/Trust Accounts

What is an escrow or trust account?

Generally, for the purposes of the real estate licensee, an escrow account or trust account is one in which none of the broker's, sales associate's or brokerage firm's own funds are maintained. In

other words, an escrow account is maintained by a broker to hold funds belonging to persons other than the broker. Such funds include rents, rental and sales deposits, monies held by a broker to cover things like maintenance, taxes, mortgage payments, for others.

What do I have to do to have an interest-bearing escrow account?

You need written permission from all interested parties in the transaction. The account must be insured and maintained in Florida. Additionally, it must be clearly understood who is to be the designated person receiving the interest. When it comes time to disburse the principal amount being held in escrow, it must be transferred into a non-interest bearing account before disbursement can be made.

Is it permissible to keep extra funds in one's escrow account?

A broker may place and maintain up to \$5,000 of personal or brokerage funds in the broker's property management escrow account and up to \$1,000 of personal or brokerage funds in the broker's sales escrow account. However, when preparing the monthly reconciliation statement, you must specifically mention the overage amount and purpose.

Is a broker required to have an escrow account?

No. A broker is not required to have an escrow account. Escrow or trust funds may be held by an attorney or a title company.

Where may a broker establish an escrow account?

Escrow monies may only be maintained in banks, trust companies, title companies, credit unions or savings and loan institutions located in Florida. Escrow accounts may not be established with securities firms.

When must funds be deposited in an escrow account?

Deposits of escrow monies should be immediately deposited upon receipt by the licensee. 'Immediately' generally means the placement of a deposit in an escrow account no later than the end of the third business day following receipt of the item to be deposited. Saturdays, Sundays and legal holidays shall not be considered as business days. A deposit received on Monday must be deposited no later than the end of the following Thursday.

Is a broker required to have a release of deposit form signed by parties involved before releasing a deposit?

No. There is no rule that requires a broker to have a release of deposit form signed by parties involved. However, many brokers/brokerage companies request that the parties involved sign a form as part of their own policy.

I am the purchaser in an escrow disbursement order case and a Final Order was just issued by your agency in this matter, ordering the money payable to me. How long should it take before the broker releases the escrow funds to me?

While there is no rule that addresses a specific number of days in which to disburse the funds, the broker should disburse the funds immediately upon receiving the Final Order. If after a reasonable amount of time the broker does not comply with the Final Order, the broker can be prosecuted for failure to comply with a Final Order.

Who is responsible for notifying the Florida Real Estate Commission of conflicting demands over monies held in escrow?

The broker that is holding the funds in his escrow account must notify FREC in writing.

When must a broker notify the Florida Real Estate Commission that he has conflicting demands over escrow funds?

A real estate broker, upon receiving conflicting demands for trust funds being maintained in his escrow account, must provide written notification to the FREC within 15 business days of the last party's demand and the broker must institute one of the settlement procedures as set forth in F.S. 475.25(1)(d)1 within 30 business days after the last demand.

What are the settlement procedures used in order to settle a conflict over funds placed in escrow?

There are four settlement procedures a real estate broker can use to settle a conflict or a "good faith doubt" (as defined in law) over escrow funds. They are: 1) request the FREC issue an Escrow Disbursement Order determining who is entitled to the escrowed property; 2) with the consent of all parties, submit the matter to arbitration; 3) by interpleader or otherwise seek adjudication of the matter by a court; or 4) with the written consent of all parties, submit the matter to mediation. There are certain time requirements concerning these settlement procedures. Also, a party may elect to commence a civil lawsuit, regardless of the broker's actions concerning these settlement procedures.

Why can't the broker return my earnest money deposit? I was unable to obtain financing.

If the broker received conflicting demands from the buyer and the seller, or if the broker has "good faith doubt" (as defined in law), he must retain the money in his escrow account and notify this division of the situation.

I am a seller and I have a contract with a buyer. There are escrow funds in the broker's escrow account. The buyer decided not to buy the property and wants his money back. I think the buyer should forfeit his deposit. What does the broker do about the escrow funds?

In this situation, a real estate broker must notify the Florida Real Estate Commission and follow the FREC rules because both parties have indicated that they want the money (Rule 61J2-10.032, F.A.C.)

How long should a broker keep abandoned escrow funds?

The broker may maintain the funds and contact the Department of Banking and Finance for information about Florida's laws about abandoned property.

Other Questions

I am in the middle of a real estate transaction and need advice?

Consult with a private attorney. This agency accepts complaints for possible disciplinary action but cannot give you legal advice. <http://www.flabar.org>

I have a problem with my apartment complex manager that won't return my security deposit. How do I get my deposit back?

The Division of Real Estate may or may not have any jurisdiction over the apartment complex manager. Also, we may refer you to DBPR's Division of Hotels and Restaurants.

I have a problem with my timeshare manager and I believe he is acting fraudulently. Who can help me?

Contact DBPR's Division of Land Sales, Condominiums and Mobile Homes, Bureau of Timeshare for information on timeshares.

How can I get help regarding a builder/contractor?

Contact DBPR's Division of Professions.

Appraiser Questions

I paid the real estate appraiser for the appraisal report, why won't he give me a copy?

Most people, when purchasing a home, must obtain a mortgage; thereby placing them in a position of borrowing the money from a bank, mortgage company or other lending institution. The main purpose of a real estate appraisal report is to determine if the value of the property meets the amount of the mortgage needed by the borrower to purchase the property.

As purchaser of a property you may have paid for the appraisal report, either by personal funds or at the closing table. However, federal guidelines established for the banking industry usually do not recognize the purchaser of the property as the "client" on the appraisal. These guidelines define the "client" as the party or parties who engage the services of an appraiser.

Most of the time the 'client' is the bank, mortgage company, or other lending institute who called the appraiser and assigned him/her the task of determining the opinion of value for the property you are buying. This act of engagement establishes an appraiser-client relationship and is a relationship of confidentiality. This means the appraiser is not legally able to discuss the outcome of the appraisal report with you as the borrower/purchaser, nor is he/she allowed to provide you with a copy of the appraisal report. Generally speaking, it is the responsibility of the lender to provide a copy of the report to you as the borrower.

I had a real estate appraisal done when I bought my home recently. The appraiser did not say anything about the faulty plumbing, bad electrical wiring or the poorly repaired roof. Now I find out there are problems. Can I hold the appraiser responsible?

Inspection of the items indicated is a very important part of a home purchase. Certified or licensed professionals who are properly insured against errors should inspect each of these items. Real estate appraisers usually are not qualified plumbers, electricians or roofers and the appraisal report should not be confused with, or considered a substitute for, a professional inspection by a qualified person.